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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re Derek C., A Minor Coming  
Under the Juvenile Court Law.

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LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

D.C.,

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Defendant and Appellant.

B294741

(Los Angeles County  
Super. Ct. No. 18CCJP04070)

APPEAL from orders of the Superior Court of Los Angeles County, Danette J. Gomez, Judge. Conditionally reversed and remanded.

Richard L. Knight, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and William D. Thetford, Deputy County Counsel, for Plaintiff and Respondent.

Father alone appealed the juvenile court's finding that the federal Indian Child Welfare Act, 25 U.S.C. sections 1901–1963 (Act) did not cover his son Derek. In lieu of an opposing brief, the Department of Children and Family Services conceded error in a letter brief. Father filed nothing in reply, signifying through silence his agreement with the Department's concession and remand proposal.

We agree with the parties that the record reflects an insufficient inquiry was made with respect to Derek's possible Indian heritage. We agree a remand is appropriate for the sole purpose of directing the Department to investigate further, including interviewing Derek and known extended family members, and to send notice to any appropriate tribes and the Bureau of Indian Affairs, and to submit those notices, return receipts, and any tribal or agency response to the juvenile court. (*In re Breanna S.* (2017) 8 Cal.App.5th 636, 654–655.) The notice must include all pages of the ICWA-030 form and must contain complete information regarding the grandparents of Derek. The juvenile court also must provide a copy of the second amended juvenile dependency petition with the new notices.

If, after proper notice is given under the Act, neither of the tribes nor the Bureau of Indian Affairs have provided a determinative response within 60 days after receiving that notice, or if there is no possibility that Derek is a member or entitled to become a member of a tribe, the court may determine the Act does not apply to the proceedings and the judgment of the juvenile court shall stand. In the alternative, if any tribe or the Bureau of Indian Affairs confirms that Derek is an Indian child, the court shall reverse its determination that the Act is inapplicable and shall apply the Act prospectively. (Cal. Rules of Court, rule 5.482(c)(1).)

## **DISPOSITION**

The jurisdictional and disposition orders are conditionally reversed. We remand the matter to the juvenile court with directions to comply with the inquiry provisions of Welfare and Institutions Code section 224.2 and California Rules of Court, rule 5.481, and if, as a result of that inquiry, there is reason to know Derek is an Indian child, with the notice provisions of the Act. (Welf. & Inst. Code, § 224.3 & Cal. Rules of Court, rule 5.481). If the inquiry reveals there is no reason to believe Derek is an Indian child, or if Derek's known family members do not respond to the Department's diligent efforts to obtain such information, the orders will be reinstated. If it is determined notice is required, the court must proceed accordingly.

The remittitur shall issue forthwith.

WILEY, J.

WE CONCUR:

BIGELOW, P. J.

STRATTON, J.